

## For the purposes of the Cultural District program a work of art is defined as:

**Original, one-of-kind, visual art; conceived and made by hand of the artist or under his direction; and not intended for mass production, except for limited editions specified below.**

**Examples of eligible visual art media and products include:** Visual arts and crafts, including but not limited to drawing, painting, sculpture, clay, ceramics, fiber, glass, leather, metal, paper, wood, installation art, light and digital sculpture, wearable art, or mixed media, and traditional and fine crafts; and limited, numbered editions (up to 100) of lithographs, photography, silk screen, intaglios, and etchings.

### **Examples of ineligible media and products include:**

- Performing art
- Food products
- Live plants, such as bonsai trees, floral arrangements, wreaths, and garlands
- Music recordings
- Reproductions of original works of art
- Giclees

## Frequently Asked Questions about items eligible for sales tax exemption in a Cultural District

- **Are antiques considered works of art?**  
Some antiques fall under the category of decorative arts, which can be categorized as a traditional or fine craft. However, not all decorative arts are original, one-of-a-kind, handmade pieces of art as many only meet some of the qualifications of the cultural district definition of a work of art. Many decorative arts, although hand made, were considered a mass produced item. Others were fashioned from patterns or designed from pieces in a catalogue, in which case, the item cannot be considered original. The seller must show the provenance of the piece as well as complete an Original Art Advisory Opinion form and receive an opinion prior to the sale. Decorative Arts are defined as ornamental and utilitarian works in media including but not limited to ceramic, wood, glass, metal, and textiles.
- **Is antique furniture eligible for tax exempt sale?**  
Generally antique furniture is home furnishing which falls in the category of decorative arts that are not considered works of visual art and are not eligible for tax exempt sale under this program. However, if the provenance (the history of the ownership of an object, especially when documented or authenticated) can show that it is an original one-of-a-kind work of art, a piece may be eligible upon provision of documentation to and review by the Department of Culture, Recreation and Tourism for an Art Advisory Opinion, in advance of a sale, as provide in the law.
- **Are tattoos considered works of art eligible for the tax exemption?**  
While tattoos are considered an artistic creation, the Department has issued a ruling that works of art must be transferable; therefore body images are not eligible.
- **Is portrait photography eligible?**  
Fine art photography refers to photographs that are created to fulfill the creative vision of the artist. Fine art photography stands in contrast to photojournalism and commercial photography. Photojournalism provides visual support for stories, mainly in the print media. Commercial photography's main focus is to sell a product or service rather than create an artistic vision. Typically studio, portrait, and commissioned photography are considered to be commercial photography, not fine art photography, and therefore are not eligible for tax exempt sale in a Cultural District. However, if there is a question as to the eligibility of a photograph as an original work of art, an advisory opinion should be requested.
- **Are photography sitting fees eligible?**  
Photographic sitting fees are charges for a service or a commercial nature. They are not eligible for sales tax exemption as original art under the definition adopted for the Cultural District program.
- **Is handmade jewelry eligible?**  
To determine if jewelry is original art, considerations include the material, design, whether handmade, and where it is sold.
  - The material - gems, stones, metals, beads – Art jewelry is created with a variety of materials including but not limited to precious metals and gems.
  - Design- crafted to fulfill the creative vision of the artist.
  - Handmade- According to the guidelines of the Federal Trade Commission, in order to be stamped or called "handmade" the work must be made solely by hand power or hand guidance.
  - Where it is sold- consider whether there was a jury process to select for inclusion at an art market.

Handmade beads and original designs qualify. Hand strung manufactured beads do not qualify unless the creative vision and original design of the piece qualifies it. If sold at an art market or festival that requires an artistic jury process (different than just an application process) it may qualify as the originality and artistic product has already been evaluated.

If there is a question about eligibility of a jewelry item as an original work of art, an advisory opinion should be requested.

- **What is wearable art?**  
Wearable art, also known as Artwear or "art to wear", refers to individually designed pieces of (usually) hand-made clothing or jewelry created as fine or expressive art. While the making of any article of clothing or other wearable object typically involves aesthetic considerations, the term wearable art implies that the work is intended to be accepted as a serious and unique artistic creation or statement.
- **What is "mass production"?**  
Mass Production is defined as production of large amounts of standardized products, including and especially on assembly lines. For the purposes of the definition of original art for the Cultural Districts program, items that can be reordered in quantity are considered mass produced. If an artist designs a work of art that he/she intends to duplicate through manufacturing, printing, or assembly by pattern over and over it is deemed to be "Intended for mass production" and is not eligible for tax exempt sale.
- **Are hand-made, original design oriental rugs eligible?**  
Most handmade oriental rugs are not original art under the definition adopted for the Cultural Districts program. They are created from traditional patterns or may be variations of a pattern recreated again and again. The rugs are manufactured items even though they use a hand knotting construction process. If the provenance (the history of the ownership of an object, especially when documented or authenticated) can show that it is an original one-of-a-kind work of art, a piece may be eligible upon provision of documentation to and review by the Department of Culture, Recreation and Tourism for an Art Advisory Opinion, in advance of a sale, as provide in the law.
- **Are hand-made furniture and crafts eligible if they are made from a pattern?**  
Hand-made furniture and crafts made from a traditional, published or shared patterns are not eligible under the definition of original art adopted for the Cultural Districts program. Items made from the creator's original design and not intended for mass production may be eligible.
- **How does the intent of the artist effect whether an item is a work of art?**  
Art is defined as the process or product of deliberately arranging elements in a way that appeals to the sense or emotions, the product of human creativity, serving as a means of expression.
- **Are all editions of 100 or less eligible regardless of the media?**  
No, only limited editions of 100 or less if they are hand made or created under the direction of the artist are eligible. Eligible media include lithographs, photography, silk screen, intaglios, etchings, and graphic design. Other reproductions of art work and posters are not eligible.
- **Are giclees enhanced by the artist eligible?**  
No, the print process used to create giclees is a mass production printing process which is excluded in the definition of original art adopted for the Cultural Districts program.
- **Does the tax-exempt sale of art apply to living artists only?**  
No. The law does not permit a distinction between art created by living or deceased artists. All art that meets the definition above is exempt from sales taxes.
- **Is there a distinction between art and craft?**  
Art and craft are both eligible for the sales tax exemption as defined above.
- **Who decides what qualifies as a work of art?**  
The Department of Culture, Recreation and Tourism, through the Office of Cultural Development determines – for the purposes of the Cultural Districts sales tax exemption – determines whether or not an item meets the definition of a work of art.
- **What if I am not sure if an item meets the definition and is eligible?**  
You may request an original art advisory opinion through the Office of Cultural Development to determine whether a specific item meets the definition of a taxexempt work of art. Complete an Original Art Advisory Opinion form available online at [www.crt.state.la.us/culturaldistricts](http://www.crt.state.la.us/culturaldistricts) and submit it to:

The Office of Cultural Development  
C/O Gaye Hamilton  
P.O. Box 44247,  
Baton Rouge, LA, 70804

or via email to [gghamilton@crt.state.la.us](mailto:gghamilton@crt.state.la.us), for a determination. The seller must provide proof that an item is a) original, b) one-of-a-kind, c) conceived and made by hand, and d) not intended for mass production.

- **How do I decide if I need an original art advisory opinion?**  
To decide if an advisory opinion is needed for a particular item or class of items ask yourself this question- Does this item stand alone as a work of art, is it original and unique, was it hand-made, and not meant for mass production? If you can honestly answer yes to all these questions but are still uncertain whether the item is original art you should request an opinion as provided in the Cultural Districts Advisory Opinion instructions. If you cannot answer yes to all points of the definition, the item is not eligible, and an advisory opinion is not needed.